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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,797	06/04/2001	Nnochiri N. Ekwuribe	9233.63	2859
20792	7590	07/08/2004	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC			RUSSEL, JEFFREY E	
PO BOX 37428			ART UNIT	PAPER NUMBER
RALEIGH, NC 27627			1654	

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/873,797	EKWURIBE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jeffrey E. Russel	1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 09 June 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) See Continuation Sheet is/are allowed.
- 6) Claim(s) 71 and 74 is/are rejected.
- 7) Claim(s) 85,87,89,90,92-94,100,104 and 110 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 09 June 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040609.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

Continuation of Disposition of Claims: Claims pending in the application are 3-6,10-19,24-32,38-40,46,48-51,53,55,56,58,60-64,66,67,69,71-75,78,80-85,87,89,90,92-94 and 96-110.

Continuation of Disposition of Claims: Claims allowed are 3-6,10-19,24-32,38-40,46,48-51,53,55,56,58,60-64,66,67,69,72,73,75,78,80-84,96-99,101-103 and 105-109.

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1. The terminal disclaimer filed June 9, 2004 has been approved.
2. Claims 71 and 74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is no antecedent basis in the claims for the phrase "the oligomer" at claim 71, lines 1-2, and claim 74, line 1. Note that independent claim 72 uses the terminology "polymer" rather than "oligomer".
3. Claims 85, 87, 92, 94, and 110 are objected to because of the following informalities: At claim 85, line 12, the semicolon after "moiety" should be changed to a comma, and the comma after "m is 1" should be changed to a semicolon. Appropriate correction is required.
4. Claim 100 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 100 recites a definition for R<sup>2</sup> which is broader than the definition for this variable in claim 96, upon which claim 100 now depends.
5. Claim 104 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 53. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claims 53 and 104 are identical in scope.
6. Applicant's arguments filed June 9, 2004 have been fully considered but they are not persuasive.

The rejections and objections set forth in sections 2 and 3 are issues remaining from the Office action mailed February 9, 2004. Applicants' response overcame all other objections and rejections set forth in that Office action. The objections set forth in sections 4 and 5 are new issues introduced by Applicants' response filed June 9, 2004.

7. Claims 3-6, 10-19, 24-32, 38-40, 46, 48-51, 53, 55, 56, 58, 60-64, 66, 67, 69, 72, 73, 75, 78, 80-84, 96-99, 101-103, and 105-109 are allowed. Claims 71 and 74 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. Claims 85, 87, 92, 94, 100, 104, and 110 would be allowable if rewritten or amended to overcome the claim objections set forth in this Office action. Claims 89, 90, and 93 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Bruce Campell can be reached at (571) 272-0974. The fax number for formal communications to be entered into the record is (703) 872-9306; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.



Jeffrey E. Russel

Primary Patent Examiner

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JRussel

July 6, 2004